IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 1963 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 07/10/2004 in WP NO : 18229 OF 2004 on the file of the High Court.)

Between:

Osmania University Employees Co-operative Housing Society Limited, Rep. by its President
D.K.Narayana Rao, s/o.late Dr.D.B. Narayan R/o.1-9-628/3, Vidyanagar, Hyderabad.

..... APPELLANT

AND

1 Sri Saibaba Shaikpet Welfare Association
Regd.No.3555/2001, 3-37
Darga Hussain Shawali, P.O.Golconda Hyderabad -8,
Rep. by its President
M.Satyanarayana S/o.Sri Ganapathi Rao.
2 Principal Secretary to the Government, Revenue (UCI)
Department, Secretariat, Hyderabad.
3 The Special Officer, Urban Land Ceiling Authority,
Hyderabad.

.....RESPONDENTS

Counsel for the Appellant : MR. D. PRAKASH REDDY.

Counsel for the respondent No.1: MR. C. RAGHU.

Counsel for the Respondent Nos.2 AND 3: GP FOR REVENUE.

The Court made the following :

ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1. Appellant herein is not a party to the writ petition and has filed this appeal after obtaining leave.

2. 1st respondent is the writ petitioner. Writ petition was filed on 18.08.2004 seeking direction against the official respondents that their representations dated 19.08.2003, 20.10.2003, consisting of 127 Members of the Association, be considered in the light of G.O.Ms.No.455, dated 29.07.2002 and pass

appropriate orders thereupon. This writ petition initially came up before the Court on 7th September, 2004 with office objections. After upholding of the office objections, it was taken up on 07.10.2004 without any counter-affidavit from the official respondents. Learned single Judge disposed of the writ petition by the order which is under challenge in the present appeal.

3. Learned single Judge directed the official respondents to consider the representations of the petitioner – Association for regularization of the land in terms of G.O.Ms.No.455, Revenue (U.C.I) Department, dated 29.07.2002. While directing so, learned single Judge said that the land, which is in the occupation of the writ petitioner, be regularized. Appellant herein is aggrieved by such an order having been obtained by 1st respondent without disclosing material facts, for which learned counsel for the appellant has placed on record with some material papers. It has been brought to our notice that the writ petitioner had filed I.A.No.834 of 2001 in O.S.No.2926 of 2001 before X Junior Civil Judge, City Civil Court, Hyderabad, seeking temporary injunction restraining Basit Ali and Narayana Reddy, the predecessors-in-interest of the present appellant, and the same was dismissed. In the said application the writ petitioner – Association had claimed that they had purchased the petition schedule property, which is divided into respective plots by way of agreements and sale deeds, from the landlord and protected tenants respectively for consideration and that they are in possession for the last 13 years. These allegations were controverted by the opposite party in the said application. Learned X Junior Civil Judge, City Civil Court, Hyderabad, held that the original owner has not executed any document in favour of the writ petitioner – Association, as relied upon by them. In addition to this document, learned counsel for the appellant has brought to our notice that on 20.12.2003 Special Chief Secretary to Government had called a report from the Special Officer & Competent Authority, Urban Land Ceiling, Hyderabad, after enquiring into the matter thoroughly as to who is in actual possession of the land and the authority thereof. Special Chief Secretary to Government had, in his letter addressed to the Special Officer & Competent Authority dated 20.12.2003, specifically made reference to the prayer of appellant herein for allotment of land in G.O.Ms.No.455 to its members as also to the

representations received from the writ petitioner – Association. Our attention has also been drawn to communication dated 29th September, 2004 of the Special Officer & Competent Authority, Urban Land Ceiling, Hyderabad, addressed to the Special Chief Secretary to the Government being the result of the enquiry conducted by Special Officer & Competent Authority on the claim of the appellant herein and the writ petitioner – Association. While this enquiry was going on and admittedly to the knowledge of the writ petitioner, without making reference to this background, writ petition was filed and without impleading appellant herein, a co-rival for the claim, an order was obtained from the Court, which practice has to be deprecated. Learned single Judge ought not to have disposed of the writ petition even without taking the counter from the official respondents as to whether representation had or had not been made. If made, whether the same was liable to be considered or not to be considered. In any case, matter is now under consideration by the Special Chief Secretary to Government, Revenue UC.II Department, who has to take appropriate decision on the appellant's representation for regularization as also the representation of the writ petitioner. After the decision is taken by the Special Chief Secretary, any party, if aggrieved by such decision, will be entitled to challenge the same in accordance with law. Therefore, we are of the view that impugned order passed in the writ petition directing to consider the representations of the writ petitioner must be set aside.

4. In the result, writ appeal is allowed setting aside the impugned order and dismissing the writ petition filed by 1st respondent herein with liberty reserved to the parties as aforementioned. No costs.

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DEVINDER GUPTA. C.J.,

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M. NARAYANA REDDY. J.,

Dated: 07.12.2004.

VRK.

To

1 The Principal Secretary to the Government Revenue
(UCI) Department, Secretariat, Hyderabad.
2 The Special Officer, Urban Land Ceiling Authority,
Hyderabad.

3. Two CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,
CHIEF JUSTICE
AND
HON'BLE SRI JUSTICE M. NARAYANA REDDY.

W.A.NO. 1963 OF 2004.

(Judgment of the Bench delivered by
Hon'ble The Chief Justice)

Dt: 07.12.2004.